

## § 40.70

is not within the city, town, or village, is so conveniently and closely situated to the general factory premises as to present no jeopardy to the revenue and as to offer no hindrance to the administration of this part, he may authorize the inclusion of such building or portion of building as part of the factory. The buildings or portions of buildings shall be described in the application for permit and the bond by number, street, and city, town, or village, and State. If any of the following conditions exist a diagram shall also be furnished, in duplicate, showing the information indicated:

(a) Where the factory is in more than one building, and each building is not identifiable by a separate street address—identify each building by a letter, number, or similar designation;

(b) Where the factory consists of a portion of a building or where portions of buildings are part of the factory—show the particular floor or floors, or room or rooms, comprising the factory;

(c) Where there is an adjoining retail store operated by the manufacturer of tobacco products including any doors or other openings between the premises.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6840, 30 FR 9310, July 27, 1965, as amended by T.D. 6871, 31 FR 33, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-232, 51 FR 28080, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

## § 40.70 Separation of and access to factory.

Where the factory consists of a portion of a building, or where portions of buildings are part of the factory, the factory shall be completely separated by walls from adjoining portions of the building. Such walls shall be securely constructed of substantial materials. The appropriate TTB officer may, wherever he finds that the revenue will not be jeopardized, authorize openings and doors in such walls or means of separation other than walls if such means adequately delineate the factory. The factory shall be accessible directly from a street, yard, common passageway, or other common means of entrance.

(72 Stat. 1421; 26 U.S.C. 5712)

## 27 CFR Ch. I (4–1–16 Edition)

## § 40.71 Factories established prior to October 1, 1961.

Factories established prior to the effective date of this part, October 1, 1961, shall not be subject to the provisions of § 40.70 if, in the opinion of the appropriate TTB officer, the existing premises afford adequate protection to the revenue.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6871, 31 FR 33, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

## § 40.72 Use of factory premises.

(a) *General.* Unless otherwise authorized by the appropriate TTB officer as provided in § 40.47, the premises used by a manufacturer of tobacco products for his factory shall be used exclusively for the purposes of manufacturing and storing tobacco products; storing materials, equipment, and supplies related thereto or used or useful in the conduct of the business; and carrying on activities in connection with business of the manufacturer of tobacco products.

(b) *Processed tobacco.* (1) A manufacturer of tobacco products that processes tobacco or receives processed tobacco on its factory premises solely for use in the manufacture of tobacco products under its permit, that removes processed tobacco from the factory premises only for purposes related to its business of manufacturing tobacco products as set forth in (b)(2) of this section, and that maintains records sufficient to show the final disposition of any processed tobacco removed from the factory premises may engage in such activities on the factory premises under the authority of its existing permit without prior authorization from TTB under § 40.47. If a manufacturer of tobacco products removes processed tobacco for purposes other than those specified in paragraph (b)(2) of this section, that manufacturer must obtain prior authorization from TTB in accordance with § 40.47 and must keep records and submit reports as prescribed in §§ 40.521 and 40.522.

(2) The following activities are considered to be activities related to the manufacture of tobacco products: Removal of samples of processed tobacco for the purpose of soliciting orders of tobacco products; removal of processed